

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS) OF THE EL PASO MUNICIPAL CODE BY AMENDING CHAPTER 19.16 (IMPROVEMENT STANDARDS AND DESIGN PRINCIPLES) SECTION 19.16.050 (STORMWATER DESIGN) SUBSECTION 19.16.050.H (PRESERVATION OF NATURAL ARROYOS) TO REQUIRE THAT THE CITY PLAN COMMISSION DETERMINE WHETHER TO APPROVE A MODIFICATION OF CONDITIONS TO ALLOW IMPROVEMENTS ON NATURAL DRAINAGE COURSES KNOWN AS ARROYOS. THE PENALTY IS AS PROVIDED IN SECTION 19.04.190 OF THE CODE.

WHEREAS, the subdivision regulations for the City of El Paso have been established for the purpose of promoting the health, safety, morals and the general welfare of its citizens; and

WHEREAS, the subdivision regulations have been adopted in accordance with *The Plan for El Paso*; and

WHEREAS, the flood hazard areas of El Paso are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands; and

WHEREAS, there is a need to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters and to control filling, grading, dredging and other development which may increase flood damage; and

WHEREAS, the amendment proposed herein is intended to vest the El Paso City Plan Commission with final determination on whether arroyos should be subject to manmade improvements which create higher water velocities and, in turn, increase hazard to life and property; and

WHEREAS, the El Paso City Council finds that the adoption of the amended subdivision regulations as herein enumerated vesting the City Plan Commission, a body comprised of nine individuals, with the determination on whether to approve a modification of conditions to Title 19, pursuant to 19.04.170 of the El Paso Municipal Code, is preferable to having a single individual determine such an important issue relating to life and property; and

WHEREAS, various City staff shall still provide recommendation as to whether a modification should be granted; and

WHEREAS, an added benefit will be the preservation of one of the richest and most diverse areas of plant and animal life found within the City of El Paso a path taken by other mountainous desert region cities such as Tucson and Phoenix Arizona; and

WHEREAS, the amendments herein are not intended to alter the existing Municipal Code requirement of Section 19.04.100 that Federal Emergency Management Agency (FEMA) requirements for stormwater drainage facilities shall control with respect to floodplain area, whenever conflict; and

WHEREAS, the amendments herein will have no negative impact upon the public health, safety, morals and general welfare of the City, and that the subdivision regulations as amended will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Chapter 19.16 (Improvement Standards and Design Principles) of Title 19 (Subdivisions) of the El Paso Municipal Code shall be and hereby is amended by deleting subsection 19.16.050.H (Preservation of Natural Arroyos), in its entirety and replacing as follows:

H. Preservation of Natural Arroyos. Arroyos shall be preserved in their natural state, except that a modification of such requirement may be granted by the city plan commission provided such modification both meets the requirements of 19.04.170 and is necessary to protect the public health, safety, or welfare. If a modification is authorized to allow improvements, the design for such improvements shall be incorporated into the subdivision improvement plans and approved by the Deputy Director for Building Services. For purposes of this subsection only, an “arroyo” shall mean an existing natural watercourse or other natural drainage system within the subdivision that conveys a one hundred year event flow.

2. Except as herein amended, Title 19 (Subdivisions) of the El Paso Municipal Code shall remain in full force and effect.

3. Nothing in this ordinance is intended to make or imply any determination or finding by the City Council, any City department or any City employee regarding the validity, construction, interpretation, administration, or enforcement of Section 19.16.050(H) as it existed prior to the adoption of this ordinance.

4. Nothing in this ordinance is intended to preclude the future amendment of the Municipal Code relating to arroyos arising out of the recommendations of the ad hoc committee appointed by Council or otherwise.

PASSED AND APPROVED this ____ day of _____, 2005.

THE CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:

Matt Watson
Assistant City Attorney